



**STATE BOARD OF EQUALIZATION  
STAFF LEGISLATIVE BILL ANALYSIS**

DRAFT

Date Introduced:	<b>03/22/11</b>	Bill No:	<b><u><a href="#">Assembly Bill 1422</a></u></b>
Tax Program:	<b>Property Tax</b>	Author:	<b>Committee on Revenue and Taxation</b>
Sponsor:	<b>California Assessors' Association</b>	Code Sections:	<b>RTC 69.5, 1150, 1154, 2821, &amp; 5303</b>
Related Bills:		Effective Date:	<b>01/01/12</b>

**BILL SUMMARY**

This bill contains **California Assessors' Association (CAA) sponsored provisions** related to the property tax, to do all the following in the Revenue and Taxation Code:

- Amend Section 69.5 to give homeowners transferring a base year value from one home to another up to 6 months to request that any new construction to the new home be included in the base year value transfer;
- Amend Sections 1150, 1154, and 5303 to update obsolete references in the definition of "certificated aircraft," "air taxi," and "aircraft;" and
- Amend Section 2821 to change the period that a person filing an affidavit of interest has to apply to the tax collector to have a parcel separately valued.

**ANALYSIS**

**Base Year Value Transfers: Post Transfer New Construction**  
*Revenue and Taxation Code Section 69.5*

**CURRENT LAW**

Under existing law, real property is generally reassessed to its current fair market value whenever there is a "change in ownership." However, under certain circumstances, property owners may avoid reassessment of a particular property by way of either a change in ownership exclusion or a base year value transfer. (California Constitution Article XIII A, Sec. 2; Revenue and Taxation Code Sections 60 - 69.5)

Revenue and Taxation Code Section 69.5 provides that persons over the age of 55 may transfer their base year value from one home to another when they purchase a new home of equal or lesser value that is located in the same county. Additionally, eight counties (Alameda, El Dorado, Los Angeles, Orange, San Diego, San Mateo, Santa Clara, and Ventura) permit persons to transfer base year values from homes located in other counties. This once-in-a-lifetime benefit gives seniors "property tax relief" by avoiding the reassessment provisions of Proposition 13. Instead, by transferring the Proposition 13 protected value from one home to another, there is essentially no change in the amount of property taxes paid. These provisions are also available to persons without regard to age if they become severely and permanently disabled.

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**New Construction – Post Transfer.** Section 69.5(h)(4)(A) provides that after a base year value transfer has been granted, the homeowner can make improvements to the new home, such as a room addition or a swimming pool, and in some cases, the new construction will not be assessed. The new construction will not be assessed if (1) the construction is completed within two years of the sale of the former home and (2) the value of the new construction plus the market value of the replacement home when purchased does not exceed the market value of the original property as determined for the original claim for a base year value transfer. To exempt the new construction from assessment, the property owner must have notified the assessor in writing within 30 days after completion of the new construction. Typically, this notification is done by filing another claim.

#### PROPOSED LAW

**New Construction – Post Transfer.** This bill would amend Section 69.5(h)(4)(A) to increase from 30 days to 6 months the time the property owner has to notify the assessor when the additional new construction is complete. Because the assessor already receives copies of all building permits issued in the county, this amendment allows the assessor to automatically extend the benefit of the base year value transfer to the new construction, when applicable, without any further action or paperwork from the property owner.

#### IN GENERAL

Under Proposition 13, property is reassessed to its current market value only after a change in ownership. Generally, the sales price of a property is used to set the property's assessed value and annual increases to that value are limited to the rate of inflation, not to exceed 2%.

**Base Year Values.** At the time of the ownership change, the value of the property for property tax purposes is redetermined based on current market value. The value initially established is referred to as the "base year value." Thereafter, the base year value is subject to annual increases for inflation, but at no more than 2% per year. This value is referred to as the "factored base year value." This system, established by Proposition 13, results in substantial property tax savings for long term property owners.

**Base Year Value Transfers.** Voters have approved three constitutional amendments permitting persons to "transfer" their Proposition 13 base year value from one home to another that is of equal or lesser value. The base year value transfer avoids reassessment of the newly purchased home to its fair market value.

- **Intracounty.** Proposition 60, approved by the voters on November 4, 1986, amended Section 2 of Article XIII A of the California Constitution to allow persons over the age of 55 to sell a principal place of residence and transfer its base year value to a replacement principal place of residence within the same county.
- **Intercounty.** Proposition 90, approved by the voters on November 8, 1988, extended these provisions to a replacement residence located in another county on a county optional basis. Currently eight counties accept transfers from outside their county.
- **Disabled Persons.** Proposition 110, approved by the voters on June 5, 1990, extended these provisions to severely and permanently disabled persons of any age.

Section 69.5 provides the statutory implementation for all three of these propositions.

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**BACKGROUND**

AB 321 (Niello) from 2009 and AB 2579 (Niello) from 2008, in part, also proposed changes concerning notification of new construction completed post base year value transfer. These bills were also sponsored by the CAA. However, those bills would have amended Section 69.5(h)(4)(A) to delete the provision that the property owner notify the assessor when the additional new construction is complete within 30 days of completion. Because the assessor already receives copies of all building permits issued in the county, under that bill the assessor would automatically extend the benefit of the base year value transfer to the new construction, when applicable, without any further action or paperwork from the property owner.

AB 321 was held in the Assembly Appropriations Committee and AB 2579 was held in the Senate Appropriations Committee.

**COMMENT**

This bill gives homeowners more time to have the value of new construction to their replacement home included under the initial base year value transfer. Homeowners that do not file another base year value transfer claim to notify the assessor within 30 days of completing the new construction are barred from receiving the full benefit of a base year value transfer to which they are otherwise entitled.

**Still Must Meet Equal or Less Than Requirement.** The value of the new construction plus the market value of the replacement home when purchased still may not exceed the market value of the original property as determined for the original claim for a base year value transfer.

**Aircraft**

*Revenue and Taxation Code Sections 1150, 1154, 5303*

**CURRENT LAW**

**Certificated Aircraft.** Related to the provisions of law for the assessment and taxation of certificated aircraft under Article 6 of Part 2 of the Revenue and Taxation Code (beginning with Section 1150), "certificated aircraft" as defined in Section 1150 means aircraft operated by an air carrier or foreign air carrier engaged in air transportation, as defined in subdivisions (3), (5), (10), and (19) of Section 101 of Title I of the "Federal Aviation Act of 1958" (P.L. 85-726; 72 Stat. 731), while there is in force a certificate or permit issued by the Civil Aeronautics Board of the United States, or its successor, or a certificate or permit issued by the California Public Utilities Commission, or its successor, authorizing such air carrier to engage in such transportation.

**Air Taxi.** Section 1154 defines "air taxi" as aircraft used by an air carrier which does not utilize aircraft having a maximum passenger capacity of more than 30 seats or a maximum payload capacity of more than 7,500 pounds in air transportation and which does not hold a certificate of public convenience and necessity or other economic authority issued by the Civil Aeronautics Board of the United States, or its successor, or by the California Public Utilities Commission, or its successor.

**Aircraft.** Related to the provisions of law for the assessment and taxation of general aircraft under Part 10 of the Revenue and Taxation Code (beginning with Section 5301), Section 5303 excludes from the definition of "aircraft," aircraft exclusively operated by

an “air carrier or foreign air carrier” engaged in “air transportation” while a certificate or permit issued by the Civil Aeronautics Board of the United States or the California Public Utilities Commission (or their successors) authorizing the air carrier to engage in air transportation. .

- The definition of “air carrier” or “foreign air carrier” is by cross reference to the definition in subdivisions (3) and (19) of Section 101 of Title 1 of the “Federal Aviation Act of 1958” (P.L. 85-726; 72 State. 731).
- The definition of “air transportation” is by cross reference to the definition in subdivision (10) of Section 101 of Title 1 of the “Federal Aviation Act of 1958” (P.L. 85-726; 72 State. 731)

#### PROPOSED LAW

This bill would update the code references in federal law to the appropriate provisions in Section 40102 of Title 49 of the United States Code. It would also update the referenced federal agency to the Federal Aviation Administration and delete the reference to the California Public Utilities Commission.

#### COMMENT

The amendments simply update and delete obsolete statutory references.

<p><b>Separate Assessment Requests</b> <i>Revenue and Taxation Code Section 2821</i></p>
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#### CURRENT LAW

Revenue and Taxation Code Section 327 provides that the assessor may renumber or re-letter parcels or prepare new map pages to show combinations or divisions of parcels.

Section 2821 allows any person filing an affidavit of interest to apply to the tax collector to have any parcel separately valued for the purpose of paying property taxes. Section 2823 requires the assessor to then determine the separate valuation of that individual interest in the parcel.

Applications requesting separate assessment for the purpose of paying property taxes must be made during the current fiscal year (July 1 to June 30). However, the county board of supervisors may prohibit these applications during the 10 working days preceding each tax installment delinquency date (December 10 and April 10) and during the 10 working days preceding June 30 of each year.

Separate valuations are prohibited under Section 2823(b) when the parcel is covered by a subdivision map filed for recordation with the county recorder after the lien date (January 1) immediately preceding the current fiscal year. However, with respect to requests for separate valuation of new subdivision lots (i.e., parcel splits) created after the lien date, this prohibition can be waived if the board of supervisors adopts a resolution. Typically, a subdivision developer will request that separate assessments be made, so that a separate tax bill would be prepared for each individual lot on an appropriate pro rata portion.

Generally, any subdivision of property for the purpose of sale, lease, or finance is subject to the Subdivision Map Act. Subdivisions of five or more parcels require local

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government approval of both a tentative subdivision map, which is discretionary, subject to whatever conditions are established by local ordinance, and a final subdivision map, which is ministerial once all of the conditions of the tentative map have been fulfilled. Subdivisions of four or fewer parcels require local government approval of a parcel map, which is also discretionary. In either case, once a map is approved by the local government, the clerk of the council or board of supervisors transmits the map to the county recorder for recordation. The county recorder has ten days to accept or reject the map for recordation.

#### **PROPOSED LAW**

This bill would amend Section 2821 to allow the board of supervisors to accept applications for requests for separate assessment between July 1 and March 31. Thus, in those counties, applications would not to be accepted in the months of April, May, and June.

#### **COMMENT**

According to the CAA, this provision is a follow up to legislation the CAA sponsored to amend Section 2823 and included in SB 822 (Ch. 204, Stats. 2009). That bill allowed assessors to create separate valuations of 5 or more lots (i.e., parcel splits) created after the lien date (January 1) that will ultimately be reflected in separate tax bills that are mailed by November 1. (The assessor must complete the roll by July 1.). The CAA states that in order to allow enough time to process an application for separate assessment, from initial processing to the issuance of the resulting tax bill, an application deadline of April 1 is proposed.

#### **COST ESTIMATE**

The provisions of the bill involve tasks to update forms and other materials which are absorbable.

#### **REVENUE ESTIMATE**

This bill has no direct impact on property tax revenues.

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